

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BETAPHARM ARZNEIMITTEL GmbH,
RATIOPHARM GmbH, and ZENTIVA
PHARMA GmbH,

Petitioners,
v.

MILLENNIUM PHARMACEUTICALS, INC., DANA-FARBER CANCER INSTITUTE, INC., MASSACHUSETTS GENERAL HOSPITAL, BRIGHAM AND WOMEN'S HOSPITAL, INC., and BETH ISRAEL DEACONESS MEDICAL CENTER, INC.,

Respondents.

Civil Action No. 1:23-mc-91600-IT

MEMORANDUM & ORDER

November 21, 2023

TALWANI, D.J.

Petitioners Betapharm Arzneimittel GmbH, Ratiopharm GmbH, and Zentiva Pharma GmbH (“Petitioners”) filed an Application for Order Pursuant to 28 U.S.C. § 1782 [Doc. No. 2].

Petitioners state that Millennium Pharmaceuticals, Inc. (and others) brought suit against them in Germany for alleged patent infringement. Mem. ISO Application 3 [Doc. No. 3]. Petitioners seek leave to serve subpoenas seeking documents and testimony from Millennium Pharmaceuticals, as well as Dana-Farber Cancer Institute, Inc., Massachusetts General Hospital, Brigham and Women’s Hospital, and Beth Israel Deaconess Medical Center, Inc. (the “Massachusetts-based hospitals”) in connection with the ongoing German patent infringement proceeding and related patent invalidity proceeding. *Id.* at 4-5. Petitioners request a discovery order on an ex parte basis.

It is hereby ORDERED that:

(1) No later than November 28, 2023, Petitioners shall either file a memorandum of law in support of its contention that proceeding ex parte is appropriate here, or shall proceed with their application with notice to Millennium Pharmaceuticals, Inc. and the Massachusetts-based hospitals by:

(A) serving the parties with (i) the Application for Order Pursuant to 28 U.S.C. § 1782; (ii) Petitioners' Memorandum in Support [Doc. No. 3] and associated Declarations and Exhibits [Doc. Nos. 4-7]; and (iii) this Order, and;

(B) filing certificate(s) documenting such service and serving copies of such certificates of service on Millennium Pharmaceuticals and the Massachusetts-based hospitals.

(2) If Petitioners proceed with notice, any opposition by Millennium Pharmaceuticals and/or the Massachusetts-based hospitals to the Petitioners' request that this court authorize limited discovery under 28 U.S.C. § 1782 and Intel Corp. v. Advanced Microdevices, Inc., 542 U.S. 241 (2004) shall be filed and served on Petitioners no later than two weeks after service of the motion.

IT IS SO ORDERED

November 21, 2023

/s/ Indira Talwani
United States District Judge